

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
INVITATION FOR BIDS (IFB) # 301-22-117**

Issue Date: March 7, 2022

Title: Boiler Replacements at the Wytheville and Warrenton Regional Animal Health Laboratories.

Commodity Code: 91036: Heating, Air Conditioning and Ventilation Maintenance and Repair Services

Issuing Agency: Commonwealth of Virginia
Department of Agriculture & Consumer Services
Purchasing Office, Second Floor
P. O. Box 1163
Richmond, Virginia 23218

Location of Delivery: The Towns of Warrenton and Wytheville, Virginia

Sealed Bids Will Be Received Until: March 29, 2022, no later than 12:00 p.m. (noon) for furnishing the goods and services described herein and then opened in public.

All inquiries or questions related to this solicitation must be submitted in writing, preferably via email, to: Paula Williams, VCO, Senior Contract Specialist of Procurement and Support Services, Email: paula.williams@vdacs.virginia.gov Telephone: 804.225.3798, Fax: 804.371.8372

IF BIDS ARE MAILED, SEND DIRECTLY TO ISSUING AGENCY SHOWN ABOVE. IF BIDS ARE HAND DELIVERED OR MAILED VIA A PARCEL SERVICE, DELIVER TO: Paula Williams, Procurement Office, Oliver W. Hill Building, 102 Governor Street, Room 265, Richmond, VA 23219. **PAPER RESPONSES ONLY - Faxed or emailed bids are not allowed and cannot be accepted.**

In compliance with this Invitation For Bids (IFB) and all conditions imposed in this IFB, the undersigned firm hereby offers and agrees to furnish all goods and services required by this IFB at the prices indicated in the pricing schedule, and the undersigned firm hereby certifies that all information provided below and in any schedule attached hereto is true, correct, and complete. Contracts will be awarded to eVA registered vendors only. See Section III.U for details.

Name and Address of Firm:

Date: _____

By: _____

(Signature in Ink)

_____ Zip Code _____

Name: _____

(Please print)

eVA Vendor ID or DUNS #: _____

Title: _____

Fax Number :() _____

Telephone: () _____

Email Address: _____

DSBSD Certified Small Business? Yes / No. If yes, provide DSBSD Certification No.: _____

OPTIONAL PREBID CONFERENCES: Refer to Section IV.O for details.

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment. Faith-based organizations may request that the issuing agency not include subparagraph 1.e in General Terms and Condition C. Such a request shall be in writing and explain why an exception should be made in that invitation to bid or request for proposal.

RETURN OF THIS COVER SHEET IS REQUIRED

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I. PURPOSE:

The intent and purpose of this IFB is to establish a firm fixed price contract(s), with one or more qualified company(s), to provide to the Virginia Department of Agriculture and Consumer Services (VDACS), an agency of the Commonwealth of Virginia, the removal of four (4) existing boilers and the installation of four (4) new Lochinvar Natural gas FTXL Fire Tube Condensing Boilers, in accordance with the requirements contained herein. To maintain product consistency among VDACS lab facilities, only boilers as specified, manufactured by Lochinvar, can be bid.

II. SCOPE OF WORK:

1. The Successful Bidder(s) shall provide all parts, tools, equipment, labor, supervision, and materials required to remove existing boilers and furnish and install new boilers at the locations below:
 - a. Lot 1: Two (2) new Boilers at the Warrenton Regional Animal Health Laboratory, 272 Academy Hill Road, Warrenton Virginia, 20186.
 - b. Lot 2: Two (2) new Boilers at the Wytheville Regional Health Laboratory, 250 Cassell Road, Wytheville, Virginia, 24382.
2. The boilers to be bid for each location are new Lochinvar FTXL Fire Tube Condensing Boilers, Model No. FTX725-N-M13, as specified with the following features:
 - a. 725,000 Btu/hr input
 - b. Natural Gas
 - c. Firing Control
 - d. Cascading Sequencer
 - e. Con-X-Us Remote Connect Capability
 - f. Up to 10:1 Turndown Ratio
 - g. Flow Rates from 10 to 150 GPM
 - h. Four (4) Pump Control
3. The Successful Bidder(s) will be required to make all needed connections to include: supply, return, gas and electrical.
4. The Successful Bidder(s) will be required to insulate all exposed and new water supply and return piping to new and existing boilers at job completion.
5. The Successful Bidder(s) will be responsible for removing and properly disposing or recycling the old boilers from each site.
6. The existing boilers must be operational during the business hours of the lab operations. If the existing boiler must be removed before the replacement boiler is installed, a temporary boiler must be in place unless the boilers can be installed after business hours, (Evenings, Holidays and weekends) and operational before the start of the next business day.
7. The Successful Bidder(s) shall be responsible for determining the services and resources required to install the new boilers and successfully complete the work via a firm fixed price contract that shall be inclusive of all materials, labor, transportation, etc., to be executed via an eVA purchase order. (See Bid Form.)
8. **The Successful Bidder(s) shall possess a Class A license in Heating, Ventilation, and Air Conditioning (HVA). The Contractor's licenses shall be valid and issued through the Commonwealth of Virginia, Department of Professional and Occupational Regulation**

(DPOR). VDACS must approve of all subcontractors before they perform work on behalf of the Successful Bidder(s).

9. The work shall be accomplished in compliance with all applicable laws, ordinances, rules, regulations and codes, including Virginia OSHA requirements and the latest version of the Virginia Uniforms Statewide Building Code issued by the Department of Housing and Community Development in effect on the date of purchase order. All work performed under this contract shall be done in a manner that will not adversely affect the integrity of the building's structural, mechanical, electrical, fire protection and life safety systems or any other building features that will overload or render useless any portion of the facility.
10. The Successful Bidder(s) shall furnish and install all new components and parts. Used or reconditioned products or materials will **not** be accepted.
11. The Successful Bidder(s) shall perform installation and startup tests to assure there are no leaks and to confirm motor rotation and unit operation are successful immediately after installation of the new boiler unit. Once favorable test results are obtained, the new boiler unit shall be put into operation, and verified it's operating as designed.
12. The Successful Bidder(s) will **not** be responsible for the integration of the new boilers into the building control system. VDACS will be contracting with Johnson Controls, Inc. separately for the integration.
13. The Successful Bidder(s) shall notify Michael Wagner, VDACS Facilities Director, before the work begins and after it has been completed. If VDACS determines the work is not satisfactory, the Successful Bidder(s) shall immediately address the issue and work to correct the deficiency until acceptance of the work is issued by VDACS.
14. Bidders shall be a business regularly engaged in servicing and installing HVAC equipment consistent with the work identified in this solicitation. The Successful Bidder(s) shall be responsible for providing personnel with the appropriate skill levels required to accomplish the work and for providing adequate supervision at the work site. It is intended that the Successful Bidder(s) shall perform all work under this contract and will not subcontract any portion of the work without prior written approval from VDACS.
15. The Successful Bidder(s) shall order all parts/components for the repair work within three (3) business days of receiving the purchase order. The parts/components shall be delivered to the repair site in the most expeditious manner possible. It is expected the Successful Bidder(s) will have all parts at the repair site within twelve (12) weeks (approximately eighty four (84) calendar days) from the date they were ordered. Work shall commence as soon as parts/components are delivered to the repair site and it should not take more than three (3) business days to complete the work.
16. The product and workmanship warranty periods will begin when final acceptance has been issued by VDACS. The Successful Bidder(s) shall support the manufacturer's warranty for any part/component installed and the workmanship warranty from the Successful Bidder(s) should be a minimum of one (1) year. Any equipment manuals, warranty documents, maintenance or operating instructions must be submitted to Michael Wagner at the completion of the work.
17. VDACS will not sign any vendor estimates, agreements, or other contract documents that may conflict with this Scope of Work, terms and conditions, and eVA purchase order.

III. GENERAL TERMS AND CONDITIONS:

- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth

of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The process for filing a complaint about this solicitation is in section 7.13 of the *Vendors Manual*. (Note section 7.13 does not apply to protests of awards or formal contractual claims.) The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under "I Sell To Virginia".

- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their bid, bidders certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all

supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.

- e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
 - f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their bid, bidders certify that their bid are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS:** By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.
- If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.
- G. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

- H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs:** Failure to submit a bid on the official state form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the Commonwealth may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.
- I. **CLARIFICATION OF TERMS:** If any prospective bidder has questions about the specifications or other solicitation documents, the prospective bidder should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.
- J. **PAYMENT:**
1. **To Prime Contractor:**
 - a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
 - b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
 - c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
 - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
 - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351, . The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).
 2. **To Subcontractors:**
 - a. Within seven (7) days of the contractor's receipt of payment from the Commonwealth, a contractor awarded a contract under this solicitation is hereby

obligated:

- (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWaM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.
- K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. **QUALIFICATIONS OF BIDDERS:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder to perform the services/furnish the goods and the bidder shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect bidder's physical facilities prior to award to satisfy questions regarding the bidder's capabilities. The Commonwealth further reserves the right to reject any bid if the evidence submitted by, or investigations of, such bidder fails to satisfy the Commonwealth that such bidder is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
 2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency's written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.
- P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional

purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

- Q. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

If sales or deliveries against the contract are not exempt, the contractor shall be responsible for the payment of such taxes unless the tax law specifically imposes the tax upon the buying entity and prohibits the contractor from offering a tax-included price.

- R. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equivalent of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The bidder is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the bidder clearly indicates in its (bid/proposal) that the product offered is an equivalent product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.

- S. **TRANSPORTATION AND PACKAGING:** By submitting their bid, all bidders certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

- T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGE AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.

2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement.
4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle).

U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice in eVA (www.eva.virginia.gov) for a minimum of 10 days.

V. **DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

W. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

X. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS:** The eVA Internet electronic procurement solution, web site portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services

to the Commonwealth shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All bidders must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the bid/proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

- a. For orders issued July 1, 2014, and after, the Vendor Transaction Fee is:
 - (i) DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.
- b. Refer to Special Term and Condition "eVA Orders and Contracts" to identify the number of purchase orders that will be issued as a result of this solicitation/contract with the eVA transaction fee specified above assessed for each order.

For orders issued prior to July 1, 2014, the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, typically within 60 days of the order issue date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- Y. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.
- Z. **SET-ASIDES IN ACCORDANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY:** This solicitation is set-aside for award priority to DSBSD-certified micro businesses or small businesses when designated as "Micro Business Set-Aside Award Priority" or "Small Business Set-Aside Award Priority" accordingly in the solicitation. DSBSD-certified micro businesses or small businesses also includes DSBSD-certified women-owned and minority-owned businesses when they have received the DSBSD small business certification. For purposes of award, bidders shall be deemed micro businesses or small businesses if and only if they are certified as such by DSBSD on the due date for receipt of bids/proposals.
- AA. **BID PRICE CURRENCY:** Unless stated otherwise in the solicitation, bidders shall state bid/offer prices in US dollars.
- BB. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of

this section.

- CC. **CIVILITY IN STATE WORKPLACES:** The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

IV. **SPECIAL TERMS AND CONDITIONS:**

- A. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- B. **AWARD TO MULTIPLE BIDDERS:** The Commonwealth reserves the right to make multiple awards as a result of this solicitation. The award(s) will be made to the lowest responsive and responsible bidder(s) based on the individual Lot Totals or the Total of both Lots, whichever is in the best interest of the Commonwealth. The Commonwealth reserves the right to conduct any tests it may deem advisable and to make all evaluations. The Commonwealth also reserves the right to reject any or all bids, in whole or in part, to waive informalities and to delete items prior to making the award, whenever it is deemed in the sole opinion of the procuring public body to be in its best interest.
- C. **eVA ORDERS AND CONTRACTS:** This solicitation will result in one (1) purchase

order, per awarded bidder, with the applicable eVA transaction fees assessed for each order. Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following: If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from www.eVA.virginia.gov. Contractors should email Catalog or Index Page information to eVA-catalog-manager@dgs.virginia.gov.

- D. **ASBESTOS:** Whenever and wherever during the course of performing any work under this contract, the contractor discovers the presence of asbestos or suspects that asbestos is present, he shall stop the work immediately, secure the area, notify the building owner and await positive identification of the suspect material. During the downtime in such a case, the contractor shall not disturb any surrounding surfaces but shall protect the area with suitable dust covers. In the event the contractor is delayed due to the discovery of asbestos or suspected asbestos, then a mutually agreed extension of time to perform the work shall be allowed the contractor but without additional compensation due to the time extension.
- E. **BID ACCEPTANCE PERIOD:** Any bid in response to this solicitation shall be valid for 90 days. At the end of the 90 days, the bid may be withdrawn at the written request of the Bidder. If the bid is not withdrawn at that time, it remains in effect until an award is made or the solicitation is canceled.
- F. **CONTRACTOR/SUBCONTRACTOR LICENSE REQUIREMENT:** By my signature on this solicitation, I certify that this firm/individual and subcontractor is properly licensed for providing the goods/services specified. Furthermore, the contractor and subcontractors shall maintain the required license throughout the term of the contract. The contractor or their subcontractor shall immediately notify the contracting agency in writing in the event the license has been revoked.

Contractor Name: _____

License # _____ Type _____

Subcontractor Name: _____

License # _____ Type _____

- G. **CONTRACTOR REGISTRATION:** If a contract for construction, removal, repair or improvement of a building or other real property is for \$120,000 or more, or if the total value of all such contracts undertaken by bidder/offeror within any 12-month period is \$750,000 or more, the bidder/offeror is required under Title 54.1-1100, *Code of Virginia* (1950), as amended, to be licensed by the State Board of Contractors a "CLASS A CONTRACTOR." If such a contract is for \$10,000 or more but less than \$120,000, or if the total value of all such contracts undertaken by bidder/offeror within any 12-month period is \$150,000 or more, but less than \$750,000 or more, the bidder is required to be licensed as a "CLASS B CONTRACTOR." If such a contract is over \$1,000 but less than \$10,000, or if the contractor does less than \$150,000 in business in a 12-month period, the bidder is required to be licensed as a "CLASS C CONTRACTOR." The board shall require a master tradesmen license as a condition of licensure for electrical, plumbing and heating, ventilation and air conditioning contractors. The bidder/offeror shall place on the outside of the envelope containing the bid/proposal and shall place in

the bid/proposal over his signature whichever of the following notations is appropriate, inserting his contractor license number:

Licensed Class A Virginia Contractor No. _____ Specialty _____

Licensed Class B Virginia Contractor No. _____ Specialty _____

Licensed Class C Virginia Contractor No. _____ Specialty _____

If the bidder/offeror shall fail to provide this information on his bid/proposal or on the envelope containing the bid/proposal and shall fail to promptly provide said contractor license number to the Commonwealth in writing when requested to do so before or after the opening of bids/proposals, he shall be deemed to be in violation of § 54.1-1115 of the *Code of Virginia* (1950), as amended, and his bid/proposal will not be considered.

If a bidder/offeror shall fail to obtain the required license prior to submission of his bid/proposal, the bid/proposal shall not be considered.

- H. **CONTRACTOR'S TITLE TO MATERIALS:** No materials or supplies for the work shall be purchased by the contractor or by any subcontractor subject to any chattel mortgage or under a conditional sales or other agreement by which an interest is retained by the seller. The contractor warrants that he has clear title to all materials and supplies for which he invoices for payment.

- I. **DELIVERY:** Delivery of goods or performance of services shall be within the number of calendar days stated below after receipt of order (ARO) by the bidder. The Agency requires the bidder to deliver within a reasonable time after ARO. If the bidder does not insert a stated delivery time in the blank below, the bidder will be deemed to offer delivery in accordance with the Agency's desired delivery time as stated below:

Agency's desired delivered time: _____ ARO

BIDDER'S STATED DELIVERY TIME: 84 CALENDAR DAYS ARO

- J. **DELIVERY NOTIFICATION:** The Agency shall be notified 48 hours prior to delivery of any items so that personnel may be available to allow access to the building and verify items received. Notification shall be made to:

Name

Phone

- K. **FINAL INSPECTION:** At the conclusion of the work, the contractor shall demonstrate to the authorized owners representative that the work is fully operational and in compliance with contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the contractor at the contractor's sole expense prior to final acceptance of the work.
- L. **IDENTIFICATION OF BID ENVELOPE:** If a special envelope is not furnished, or if return in the special envelope is not possible, the signed Bid should be returned in a separate envelope or package, sealed, and identified as follows:

From: _____

Name of Bidder/Offeror

Due Date

Time

Street or Box Number

IFB No./RFP No.

DSBSD-certified Micro Business or Small Business No. _____

Name of Contract/Purchase Officer or Buyer _____

M. **MAINTENANCE MANUALS:** The contractor shall provide with each piece of equipment an operations and maintenance manual with wiring diagrams, parts list, and a copy of all warranties.

N. **SUBMISSION OF SMALL BUSINESS SUBCONTRACTING PLAN, EVIDENCE OF COMPLIANCE WITH SMALL BUSINESS SUBCONTRACTING PLAN, AND SUBCONTRACTOR REPORTING:**

1. Submission of Small Business Subcontracting Plan: It is the statewide goal of the Commonwealth that 42% of its purchases be made from small businesses certified by DSBSD. This includes discretionary spending in prime contracts and subcontracts. All bidders are required to submit a Small Business Subcontracting Plan. The contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status when they have also received DSBSD small business certification. Where it is not practicable for any portion of the goods/services to be subcontracted to other suppliers, the bidder shall note such on the Small Business Subcontracting Plan. No bidder or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids or proposals.
2. Evidence of Compliance with Small Business Subcontracting Plan: Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution timely reports substantiating compliance in accordance with the small business subcontracting plan. If a variance exists, the contractor shall provide a written explanation. A subcontractor shall be considered a Small Business for purposes of a contract if and only if the subcontractor holds a certification as such by the DSBSD. Payment(s) may be withheld until the purchasing agency confirms that the contractor has certified compliance with the contractor's submitted Small Business Subcontracting Plan or is in receipt of a written explanation of the variance. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.
3. Prime Contractor Subcontractor Reporting:
 - A. Each prime contractor who wins an award greater than \$100,000, shall deliver to the contracting agency or institution on a monthly basis, all applicable information for each subcontractor listed on the Small Business Subcontracting Plan that are DSBSD-certified businesses or Employment Services Organizations (ESOs). The contractor shall furnish the applicable information to the purchasing office via the Subcontractor Payment Reporting tool accessible within the contractor's eVA account.
 - B. In addition each prime contractor who wins an award greater than \$200,000 shall deliver to the contracting agency or institution on a monthly basis, all applicable information on use of subcontractors that are **not** DSBSD-certified businesses or Employment Services Organizations. The contractor shall furnish the all applicable information to the purchasing office via the Subcontractor Payment Reporting tool

accessible within the contractor's eVA account.

- O. **OPTIONAL PRE-BID CONFERENCES:** An optional pre-bid conference will be held at **10:00 a.m. on March 17, 2022 at the Wytheville Regional Animal Health Laboratory located at 250 Cassell Road, Wytheville, Virginia, 24382.**

And an optional pre-bid conference will be held at **10:00 a.m. on March 18, 2022 at the Warrenton Regional Animal Health Laboratory located at 272 Academy Hill Road, Warrenton Virginia, 20186.**

The purpose of these conferences is to allow potential bidders an opportunity to present questions and obtain clarification relative to any facet of the solicitation.

While attendance at this conference will not be a prerequisite to submitting a bid, bidders who intend to submit a bid are encouraged to attend. Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

- P. **EXTRA CHARGES NOT ALLOWED:** The bid price shall be for complete installation ready for the Commonwealth's use, and shall include all applicable freight and installation charges; extra charges will not be allowed.
- Q. **PRIME CONTRACTOR RESPONSIBILITIES:** The Contractor shall be responsible for completely supervising and directing all work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the Prime Contractor. The Contractor agrees that he is fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
- R. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the Purchasing agency. In the event that the Contractor desires to subcontract some part of the work specified herein, the Contractor shall furnish the Purchasing agency with the names, qualifications, and experience of their proposed subcontractors. The Contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
- S. **PRODUCT INFORMATION:** The bidder shall clearly and specifically identify the product being offered and enclose complete and detailed descriptive literature, catalog cuts and specifications with the bid/proposal to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. Failure to do so may cause the bid/proposal to be considered nonresponsive.
- T. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:** Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of

Contractor's statement describing why the bidder was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.

- U. **WARRANTY:** All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of _____ following date of delivery. Should any defect be noted by the owner, the Purchasing Office will notify the contractor of such defect or non-conformance. Notification will state either (1) that the contractor shall replace or correct, or (2) the owner does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the contractor is required to correct or replace, it shall be at no cost to the Commonwealth and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the contractor fails or refuses to replace or correct the deficiency, the office issuing the purchase order may have the materials corrected or replaced with similar items and charge the contractor the costs occasioned thereby or obtain an equitable adjustment in the contract price.
- V. **WORK SITE DAMAGES:** Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the Commonwealth's satisfaction at the contractor's expense.
- W. **E-VERIFY PROGRAM:** EFFECTIVE 12/1/13. Pursuant to *Code of Virginia*, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

V. **ADDITIONAL TERMS AND CONDITIONS FOR NON-CAPITAL OUTLAY CONSTRUCTION PROJECTS:**

- 1. **DEFINITIONS:** Whenever used in this solicitation or in the contract documents, the following terms have the meanings indicated, which are applicable to both the singular and plural and the male and female gender thereof:
 - (a) **Agency:** The term, agency, unless otherwise indicated, shall mean the owner.
 - (b) **Commonwealth:** The term "Commonwealth" shall mean the owner which is the Commonwealth of Virginia through the governing Body, the Board, the Building Committee or other agent with authority to execute the contract for the institution or agency involved. The Commonwealth's agent is the official with the authority to sign the contract on behalf of the Commonwealth.
 - (c) **Construction:** As used in these documents shall include new construction, reconstruction, renovation, restoration, major repair, demolition and all similar work upon buildings and ancillary facilities owned or to be acquired by the Commonwealth and any draining, dredging, excavation, grading, or similar work upon real property.

- (d) **Contractor:** The person, firm or corporation with whom the owner has entered into a contractual agreement and includes the plural number and the feminine gender when such are named in the contract as the contractor.
- (e) **Defective:** An adjective which when modifying the word work, refers to work that is unsatisfactory, faulty, or deficient, or does not conform to the contract documents, or does not meet the requirements of any inspections, standard, test, or approval referred to in the contract documents, or has been damaged prior to final payment.
- (f) **Emergency:** Any unforeseen combination of circumstances or a resulting state that poses imminent danger to health, life, or property.
- (g) **Final Acceptance:** The agency's acceptance of the project from the contractor upon confirmation from the project inspector and the contractor that the project is totally complete in accordance with the contract requirements and that all defects have been eliminated. Final acceptance is confirmed by the making of final payment of the contract amount including any change orders or adjustment thereto.
- (h) **Notice:** All written notices, demands, instructions, claims, approvals, and disapprovals required to obtain compliance with the contract requirements. Any written notice by either party to the contract shall be sufficiently given if delivered to or at the last known business address of the person, firm or corporation constituting the party to the contract, or to his, their or its authorized agent, representative or officer, or when enclosed in a postage prepaid envelope addressed to such last known business address and deposited in a United States mailbox.
- (i) **Notice to Proceed:** A written notice given by the owner to the contractor fixing the date on which the contract time will commence for the contractor to begin the prosecution of the work in accordance with the requirements of the contract documents.
- (j) **Owner:** The Commonwealth of Virginia, i.e., an agency, institution, or department, with whom the contractor has entered into a contract and for whom the work or services is to be provided.
- (k) **Project Inspector:** One or more individuals employed by the owner to inspect the work and/or to act as clerk of the works to the extent required by the owner. The owner shall notify the contractor in writing of the appointment of such project inspector(s).
- (l) **Provide:** Shall mean furnish and install ready for its intended use.
- (m) **Submittal:** All drawings, diagrams, illustrations, schedules, and other data required by the contract documents which are specifically prepared by or for the contractor to illustrate some portion of the work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams, and other information prepared by a supplier and submitted by the contractor to illustrate material or equipment for some portion of the work.
- (n) **Subcontractor:** An individual, partnership or corporation having a direct contract with contractor or with any other subcontractor for the performance of the work. It includes one who provides on-site labor but does not include one who only furnishes or supplies materials for the project.

- (o) **Substantial Completion:** The work which is sufficiently complete, in accordance with the contract documents, so that the project can be utilized by the owner for the purposes for which it is intended.
- (p) **Supplier:** A manufacturer, fabricator, distributor, materialman, or vendor who provides material for the project but does not provide on-site labor.
- (q) **Underground Facilities:** All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities which are or have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone, or other communications, cable television, sewage and drainage removal, traffic, or other control systems or water.
- (r) **Work:** The entire completed construction or the various separately identifiable parts thereof required to be furnished under the contract documents. Work is the result of performing services, furnishing labor, and furnishing and incorporating materials and equipment into the construction, all as required by the contract documents.

2. **CONTRACT DOCUMENTS:**

- (a) The contract entered into by the parties shall consist of the Invitation for Bids, the bid submitted by the contractor; General Terms and Conditions, these Additional Terms and Conditions; the Special Terms and Conditions; the drawings, if any; the specifications; and all modifications and addenda to the foregoing documents, all of which shall be referred to collectively as the contract documents.
- (b) All time limits stated in the contract documents, including but not limited to the time for completion of the work, are of the essence of the contract.
- (c) Anything called for by one of the contract documents and not called for by the others shall be of like effect as if required or called for by all, except that a provision clearly designed to negate or alter a provision contained in one or more of the other contract documents shall have the intended effect.

3. **LAWS AND REGULATIONS:**

- (a) The contractor shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work and shall give all notices required thereby. The Contractor shall assure that all Subcontractors and tradesmen who perform Work on the project are properly licensed by the Department of Professional and Occupational Regulation as required by Title 54.1, Chapter 11, Articles 1 and 3 and by applicable regulations.
- (b) This contract and all other contracts and subcontracts are subject to the provisions of Articles 3 and 5, Chapter 4, Title 40.1, *Code of Virginia*, relating to labor unions and the "right to work." The contractor and its subcontractors, whether residents or nonresidents of the Commonwealth, who perform any work related to the project shall comply with all of the said provisions.
- (c) The provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia and as issued by the Department of Labor and Industry under Title 40.1 of the *Code of Virginia* shall apply to all work under this contract. Inspectors from the Department of Labor and Industry shall be granted access to the work for inspection without first obtaining a search warrant from the court.

- (d) Building Permit: Because this is a project of the Commonwealth of Virginia, codes or zoning ordinances of local political subdivisions do not apply. Building permits where required will be obtained and paid for by the owner. This does not include any local license fees, business fees or similar assessments which may be imposed by the appropriate political subdivision.
- (e) The contractor, if not licensed as an asbestos abatement contractor or a RFS contractor in accordance with § 54.1-514, *Code of Virginia*, shall have all asbestos related work performed by subcontractors who are duly licensed as asbestos contractors or RFS contractors as appropriate for the work required.
- (f) The Contractor is neither required nor prohibited from entering into or adhering to agreements with one or more labor organizations, or otherwise discriminating against subcontractors for becoming or refusing to become, or remaining signatories to or otherwise adhering to, agreements with one or more labor organizations. This section does not prohibit contractors or subcontractors from voluntarily entering into agreements with one or more labor organizations. Both the agency and contractor are entitled to injunctive relief to prevent any violation of this section.

This section does not apply to any public-private agreement for any construction in which the private body, as a condition of its investment or partnership with the state agency, requires that the private body have the right to control its labor relations policy and perform all work associated with such investment or partnership in compliance with all collective bargaining agreements to which the private party is a signatory and is thus legally bound with its own employees and the employees of its contractors and subcontractors in any manner permitted by the National Labor Relations Act, 29 U.S.C. § 151 et seq., or the Railway Labor Act, 45 U.S.C. § 151 et seq.

This section does not prohibit an employer or any other person covered by the National Labor Relations Act or the Railway Labor Act from entering into agreements or engaging in any other activity protected by law.

This section shall not be interpreted to interfere with the labor relations of persons covered by the National Labor Relations Act or the Railway Labor Act.

- 4. **PREPARATION AND SUBMISSION OF BIDS:** Bids must give the full business address of the bidder and be signed by him/her with his/her usual signature. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership or any authorized representative, followed by the designation of the person signing. Bids by corporations must be signed with the legal name of the corporation followed by the name of the State in which it is incorporated and by the signature and designation of the president, secretary, or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the signature. A bid by a person who affixes to the signature the word "President," "Secretary," "Agent" or other designation without disclosing the principal, may be held to be the bid of the individual signing. When requested by the Commonwealth, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.
- 5. **WITHDRAWAL OR MODIFICATION OF BIDS:** Bids may be withdrawn or modified by written notice received from bidders prior to the deadline fixed for bid receipt. The withdrawal or modification may be made by the person signing the bid or by an individual(s) who is authorized by him/her on the face of the bid. Written modifications may be made on the bid form itself, on the envelope in which the bid is enclosed, or on a separate document. Written modifications, whether the original is delivered, or

transmitted by facsimile, must be signed by the person making the modification or withdrawal.

6. **RECEIPT AND OPENING OF BIDS:**

- (a) It is the responsibility of the bidder to assure that his/her bid is delivered to the place designated for receipt of bids and prior to the time set for receipt of bids. Bids received after the time designated for receipt of bids will not be considered.
- (b) Bids will be opened at the time and place stated in the advertisement, and their contents made public for the information of bidders and others interested who may be present either in person or by representative. The officer or agent of the owner, whose duty it is to open them, will decide when the specified time has arrived. No responsibility will be attached to any officer or agent for the premature opening of a bid not properly addressed and identified.
- (c) The provisions of § 2.2-4342 of the *Code of Virginia*, as amended, shall be applicable to the inspection of bids received.

7. **ERRORS IN BIDS:** Errors in bids will be handled in accordance with section 5.13 of the *Vendors Manual*.

8. **SUBCONTRACTS:**

- (a) The contractor shall as soon as practicable after the signing of the contract, notify the owner in writing of the names of subcontractors proposed for the principal parts of the work. The contractor shall not employ any subcontractor that the owner may, within a reasonable time, object to as unsuitable. The owner will not direct the contractor to contract with any particular subcontractor unless provided in the specifications or bid form.
- (b) The owner shall, on request, furnish to any subcontractor, if practicable, the amounts of payments made to the contractor, the Schedule of Values and Requests for Payment submitted by the contractor, and any other documentation submitted by the contractor which would tend to show what amounts are due and payable by the contractor to the subcontractor.
- (c) The contractor agrees that he is as fully responsible to the owner for the acts and omissions of his subcontractors, suppliers, and invitee upon the site of the project and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

9. **SEPARATE CONTRACTS:**

- (a) The owner reserves the right to let other contracts in connection with the project, the work under which may proceed simultaneously with the execution of this contract. The contractor shall afford other separate contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work. The contractor shall cooperate with them and shall take all reasonable action to coordinate his work with theirs. If the owner has listed other separate contracts in the Invitation for Bids which it expects to proceed simultaneously with the work of the contractor, and has included the estimated timing of such other contracts in the Invitation for Bids, the contractor shall integrate the schedule of those separate contracts into his scheduling. The contractor shall make every reasonable effort to assist the owner in maintaining the schedule for all separate contracts. If the work performed by the separate contractor is defective or performed so as to prevent this

contractor from carrying out his work according to the drawings and specifications of this contract, this contractor shall immediately notify the owner upon discovering such conditions.

- (b) If a dispute arises between the contractor and separate contractors as to their responsibility for cleaning up as required by Sections 18(c) and 18(d) of these Additional Terms and Conditions, the owner may clean up and charge the cost thereof to the respective contractors in proportion to their responsibility. If a contractor disputes the owner's apportionment of clean-up costs, it shall be that contractor's burden to demonstrate and prove the correct apportionment.

10. **TAXES:** The contractor shall, without additional expense to the owner, pay all applicable federal, state, and local taxes, fees, and assessments except the taxes, fees, and assessments on the real property comprising the site of the project. If the State Building Official elects to have the local building official inspect the work as provided by § 36-98.1 of the *Code of Virginia*, the owner will pay the resulting fees to the local building official.

11. **PATENTS:** The contractor shall obtain all licenses necessary to use any invention, article, appliance, process, or technique of whatever kind and shall pay all royalties and license fees. The contractor shall hold and save the owner, its officers, agents, and employees, harmless from any loss or liability for or on account of the infringement of any patent rights in connection with any invention, process, technique, article or appliance manufactured or used in the performance of the contract, including its use by the owner, unless such invention, process, technique, article, or appliance is specifically named in the specifications or drawings as acceptable for use in carrying out the work. If, before using any invention, process, technique, article, or appliance specifically named in the specifications or drawings as acceptable for use in carrying out the work, the contractor has or acquires information that the same is covered by letters of patent making it necessary to secure the permission of the patentee, or other, for the use of the same, he shall promptly advise the owner. The owner may direct that some other invention, process, technique, article, or appliance be used. Should the contractor have reason to believe that the invention, process, technique, article, or appliance so specified is an infringement of a patent, and fail to inform the owner, he shall be responsible for any loss due to the infringement.

12. **INSPECTION:**

- a. All material and workmanship shall be subject to inspection, examination, and test by the owner and its project inspector at any and all times during construction. The project inspector shall have authority to reject defective material and workmanship and require its correction. Rejected workmanship shall be satisfactorily corrected and rejected material shall be satisfactorily replaced with proper material without charge therefore, and the contractor shall promptly segregate and remove the rejected material from the premises. If the contractor fails to proceed at once with replacement of rejected material and/or the correction of defective workmanship, the owner may, by contract or otherwise, replace such material and/or correct such workmanship and charge the cost to the contractor, or may terminate the right of the contractor to proceed, the contractor and surety being liable for any damages.
- b. Job-site inspections, tests conducted on site or tests of materials gathered on site, which the contract requires to be performed by independent testing entities, shall be contracted and paid for by the owner. Examples of such tests are the testing of cast in-place concrete, foundation materials, soil compaction, pile installations, caisson bearings, and steel framing connections. Although conducted by independent testing entities, the owner will not contract and pay for tests or certifications of materials, manufactured products, or assemblies which the contract, codes, standards, etc.

require to be tested and/or certified for compliance with industry standards such as Underwriters Laboratories, Factory Mutual, or ASTM. If there are any fees to be paid for such tests and certifications, they will be paid by the contractor. The contractor shall also pay for all inspections, tests, and certifications which the contract specifically requires him to perform or pay, together with any inspections and tests which he chooses to perform for his own quality control purposes. The contractor shall promptly furnish, without additional charge, all reasonable facilities, labor, and materials necessary and convenient for making such tests. Except as provided in (c) below, whenever such examination and testing finds defective materials, equipment, or workmanship, the contractor shall reimburse the owner for the cost of re-examination and retesting.

- c. Should it be considered necessary or advisable by the owner at any time before final acceptance of the entire work to make an examination of any part of the work already completed, by removing or tearing out portions of the work, the contractor shall on request promptly furnish all necessary facilities, labor and material to expose the work to be tested to the extent required. If such work is found to be defective in any respect, due to the fault of the contractor or his subcontractors, he shall defray all the expenses of uncovering the work, of examination and testing, and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the actual cost of the contractor's labor and material necessarily involved in uncovering the work, the cost of examination and testing, and contractor's cost of material and labor necessary for replacement shall be paid to the contractor and he shall, in addition, if completion of the work has been delayed thereby, be granted a suitable extension of time.
- d. The project inspector will recommend to the owner that the work be suspended when in his judgment the drawings and specifications are not being followed. Any such suspension shall be continued only until the matter in question is resolved to the satisfaction of the owner. The cost of any such work stoppage shall be borne by the contractor unless it is later determined that no fault existed in the contractor's work.
- e. The project inspector has no authority to and shall not:
 - (1) Authorize deviations from the contract documents;
 - (2) Enter into the area of responsibility of the contractor's superintendent;
 - (3) Issue directions relative to any aspect of construction means, methods, techniques, sequences or procedures, or in regard to safety precautions and programs in connection with the work;
 - (4) Authorize or suggest that the owner occupy the project, in whole or in part;
 - (5) Issue a certificate for payment.

13. **SUPERINTENDENCE BY CONTRACTOR:**

- a. The contractor shall have a competent foreman or superintendent, satisfactory to the owner, on the job site at all times during the progress of the work. The contractor shall be responsible for all construction means, methods, techniques, sequences, and procedures for coordinating all portions of the work under the contract except where otherwise specified in the contract documents, and for all safety and worker health programs and practices. The contractor shall notify the owner, in writing, of any proposed change in superintendent including the reason therefore prior to making such change.

- b. The contractor shall, at all times, enforce strict discipline and good order among the workers on the project, and shall not employ on the work any unfit person, anyone not skilled in the work assigned to him, or anyone who will not work in harmony with those employed by the contractor, the subcontractors, the owner or the owner's separate contractors and their subcontractors.
 - c. The owner may, in writing, require the contractor to remove from the work any employee the owner deems to be incompetent, careless, not working in harmony with others on the site, or otherwise objectionable.
- 14. **ACCESS TO WORK:** The owner, the owner's inspectors and other testing personnel, and inspectors from the Department of Labor and Industry shall have access to the work at all times. The contractor shall provide proper facilities for access and inspection.
- 15. **AVAILABILITY OF MATERIALS:** If material specified in the contract documents is not available on the present market, alternate materials may be proposed by the contractor for approval of the owner.
- 16. **CONTRACTOR'S TITLE TO MATERIALS:** No materials or supplies for the work shall be purchased by the contractor or by any subcontractor subject to any security interest, installment or sales contract or any other agreement or lien by which an interest is retained by the seller or is given to a secured party. The contractor warrants that he has clear title to all materials and supplies which he uses in the work or for which he accepts payment in whole or in part.
- 17. **WARRANTY OF MATERIALS AND WORKMANSHIP:**
 - a. The contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the work under the contract shall be new, in first class condition, and in accordance with the contract documents. The contractor further warrants that all workmanship shall be of the highest quality and in accordance with contract documents and shall be performed by persons qualified at their respective trades.
 - b. Work not conforming to these warranties shall be considered defective.
 - c. This warranty of materials and workmanship is separate and independent from and in addition to any of the contractor's other guarantees or obligations in this contract.
- 18. **USE OF PREMISES AND REMOVAL OF DEBRIS:**
 - a. The contractor shall:
 - (1) Perform his contract in such a manner as not to interrupt or interfere with the operation of any existing activity on the premises or with the work of any contractor;
 - (2) Store his apparatus, materials, supplies, and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other contractor; and
 - (3) Place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
 - b. The contractor expressly undertakes, either directly or through his subcontractor(s), to effect all cutting, filling, or patching of his work required to make the same conform

to the drawings and specifications, and, except with the consent of the owner, not to cut or otherwise alter the work of any other contractor. The contractor shall not damage or endanger any portion of the work or premises, including existing improvements, unless called for by the contract.

- c. The contractor expressly undertakes, either directly or through his subcontractor(s), to clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly, and workmanlike appearance. No such refuse, rubbish, scrap material, and debris shall be left within the completed work nor buried on the building site, but shall be removed from the site and properly disposed of in a licensed landfill or otherwise as required by law.
- d. The contractor expressly undertakes, either directly or through his subcontractor(s), before final payment, to remove all surplus material, false work, temporary structures, including foundations thereof, plants of any description and debris of every nature resulting from his operations and to put the site in a neat, orderly condition; to thoroughly clean and leave reasonably dust free all finished surfaces including all equipment, piping, etc., on the interior of all buildings included in the contract; and to thoroughly clean all glass installed under the contract including the removal of all paint and mortar splatters and other defacements. If a contractor fails to clean up at the completion of the work, the owner may do so and charge for costs thereof to the contractor.
- e. During and at completion of the work, the contractor shall prevent site soil erosion, the runoff of silt and/or debris carrying water from the site, and the blowing of debris off the site in accordance with the applicable requirements and standards of the *Virginia Erosion and Sediment Control Handbook*, latest edition, and of the contract documents.
- f. The contractor shall not operate or disturb the setting of any valves, switches or electrical equipment on the service lines to the building except by proper previous arrangement with the owner. The contractor shall give ample advance notice of the need for cut-offs which will be scheduled at the convenience of the owner.

19. **PROTECTION OF PERSONS AND PROPERTY:**

- a. The contractor expressly undertakes, both directly and through its subcontractor(s), to take every precaution at all times for the protection of persons and property which may come on the building site or be affected by the contractor's operation in connection with the work.
- b. The contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work.
- c. The provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the *Code of Virginia* shall apply to all work under this contract.
- d. The contractor shall continuously maintain adequate protection of all his work from damage and shall protect the owner's property from injury or loss arising in connection with this contract. He shall make good any such damage, injury, or loss, except such as may be directly due to errors in the contract documents or caused by agents or employees of the owner. He shall adequately protect adjacent property to prevent any damage to it or loss of use and enjoyment by its owners. He shall

provide and maintain all passageways, guard fences, lights, and other facilities for protection required by public authority, local conditions, any of the contract documents or erected for the fulfillment of his obligations for the protection of persons and property.

- e. In an emergency affecting the safety or life of persons or of the work, or of the adjoining property, the contractor, without special instruction or authorization from the owner, shall act, at his discretion, to prevent such threatened loss or injury. Also, should he, to prevent threatened loss or injury, be instructed or authorized to act by the owner, he shall so act immediately, without appeal. Any additional compensation or extension of time claimed by the contractor on account of any emergency work shall be determined as provided by paragraph O, of the General Terms and Conditions.

20. **CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT:** If the work should be stopped under any order of any court or other public authority for a period of ninety (90) days through no fault of the contractor or of anyone employed by him, or if the owner should fail to pay to the contractor within thirty (30) days when no dispute exists as to the sum, then the contractor may, upon ten (10) calendar days written notice to the owner, stop work or terminate the contract and recover from the owner payment for the cost of the work actually performed, together with overhead and profit thereon, but profit shall be recovered only to the extent that the contractor can demonstrate that he would have had profit on the entire contract if he had completed the work. The contractor may not receive profit or any other type of compensation for parts of the work not performed. The contractor may recover the cost of physically closing down the job site, but no other costs of termination. The owner may offset any claims it may have against the contractor against the amounts due to the contractor. In no event shall termination of the contract by the contractor terminate the obligations of the contractor's surety on its payment and performance bonds.

21. **OWNER'S RIGHT TO TERMINATE THE CONTRACT FOR CAUSE:**

- a. If the contractor should be adjudged as bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, the owner may terminate the contract. If the contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to subcontractors or suppliers of material or labor, or persistently disregards laws, ordinances, or the written instructions of the owner, or otherwise be guilty of a substantial violation of any provision of the contract, then the owner may terminate the contract.
- b. Prior to termination of the contract, the owner shall give the contractor and his surety ten (10) calendar days written notice, during which the contractor and/or his surety may rectify the cause of the termination. If rectified to the satisfaction of the owner within said ten (10) days, the owner may rescind his notice of termination. If it does not, the termination for cause shall become effective at the end of the ten-day (10) notice period. In the alternative, the owner may postpone the effective date of the termination notice, at his sole discretion, if he should receive reassurances from the contractor and/or its surety that the causes of termination will be remedied in a time and manner which the owner finds acceptable. If at any time more than ten (10) days after the notice of termination, the owner determines that contractor and/or its surety has not or is not likely to rectify the causes of termination in an acceptable manner or within the time allowed, then the owner may immediately terminate the contract for cause by giving written notice to the contractor and its surety. In no event shall

termination for cause terminate the obligations of the contractor's surety on its payment and performance bonds.

- c. Notice of terminations, whether initial or given after a period of postponement, may be served upon the contractor and the surety by mail or any other means at their last known places of business in Virginia or elsewhere, by delivery to any officer or management/supervisory employee of either wherever they may be found, or, if no such officer, employee or place of business is known or can be found by reasonable inquiry within three (3) days, by posting the notice at the job site. Failure to accept or pick up registered or certified mail addressed to the last known address shall be deemed to be delivery.
- d. Upon termination of the contract, the owner shall take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method he may deem expedient. In such case the contractor shall not be entitled to receive any further payment. If the expense of finishing the work, including compensation for additional managerial and administrative services shall exceed the unpaid balance of the contract price, the contractor shall pay the difference to the owner, together with any other expenses of terminating the contract and having it completed by others.
- e. If it should be judicially determined that the owner improperly terminated this contract for cause, then the termination shall be deemed to be a termination for the convenience of the owner.
- f. Termination of the contract under this section is without prejudice to any other right or remedy of the owner.

22. TERMINATION BY OWNER FOR CONVENIENCE:

- a. Owner may terminate this contract at any time without cause, in whole or in part, upon giving the contractor notice of such termination. Upon such termination, the contractor shall immediately cease work and remove from the project site all of its labor forces and such of its materials as owner elects not to purchase or to assume in the manner hereinafter provided. Upon such termination, the contractor shall take such steps as owner may require to assign to the owner the contractor's interest in all subcontracts and purchase orders designated by owner. After all such steps have been taken to owner's satisfaction, the contractor shall receive as full compensation for termination and assignment the following:
 - (1) All amounts then otherwise due under the terms of this contract,
 - (2) Amounts due for work performed subsequent to the latest Request for Payment through the date of termination,
 - (3) Reasonable compensation for the actual cost of demobilization incurred by the contractor as a direct result of such termination. The contractor shall not be entitled to any compensation for lost profits or for any other type of contractual compensation or damage other than those provided by the preceding sentence. Upon payment of the forgoing, owner shall have no further obligations to the contractor of any nature.
- b. In no event shall termination for the convenience of the owner terminate the obligations of the contractor's surety on its payment and performance bonds.

23. GUARANTEE OF WORK:

- a. Except as otherwise specified, all work shall be guaranteed by the contractor against defects resulting from the use of inferior materials, equipment, or workmanship for one (1) year from the date of final acceptance of the entire project by the owner in writing. Equipment and facilities, which have seasonal limitations on their operation, shall be guaranteed for one (1) full year from the date of seasonally appropriate tests and acceptance, in writing, by the owner.
- b. If, within the guarantee period, defects are noticed by the owner which require repairs or changes in connection with the guaranteed work, those repairs or changes being in the opinion of the owner rendered necessary as the result of the use of materials, equipment or workmanship, which are defective, or inferior or not in accordance with the terms of the contract, then the contractor shall, promptly upon receipt of notice from the owner, such notice being given not more than two weeks after the guarantee period expires, and without expense to the owner:
 - (1) Place in satisfactory condition in every particular all of such guaranteed work and correct all defects therein;
 - (2) Make good all damage to the structure, site, equipment, or contents thereof, which is the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the contracts; and
 - (3) Make good any work, materials, equipment, contents of structures, and/or disturbance of the site in fulfilling any such guarantee.
- c. In any case, where in fulfilling the requirements of the contract or any guarantee embraced in or required thereby, the contractor disturbs any work guaranteed under contract, he shall restore such work to a condition satisfactory to the owner and guarantee such restored work to the same extent as it was guaranteed under such other contract.
- d. If the contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the owner may have the defects corrected and the contractor and his surety shall be liable for all expense incurred.
- e. All special guarantees applicable to definite parts of the work that may be stipulated in the specifications or other papers forming a part of the contract shall be subject to the term of this section during the first year of the life of such special guarantee.
- f. Nothing contained in this section shall be construed to establish a period of limitation with respect to any other obligation which the contractor might have under the contract documents, including liability for defective work under Section 17 of these additional terms and conditions. This paragraph relates only to the specific obligation of the contractor contained in this section to correct the work and does not limit the time within which his obligation to comply with the contract documents may be sought to be enforced, nor of the time within which proceedings may be commenced to establish the contractor's liability with respect to his other obligations under this contract.
- g. In the event the work of the contractor is to be modified by another contractor, either before or after the final inspection, the first contractor shall remain responsible in all respects under the guarantee of work and under any other warranties provided in the contract or by law. However, the contractor shall not be responsible for any defects in material or workmanship introduced by the contractor modifying its work. Both the first contractor and the contractor making the modifications shall each be responsible

solely for the work done by each. The contractor modifying the earlier work shall be responsible for any damage to or defect introduced into the work which he is modifying. If any contractor shall claim that another contractor has introduced defects of materials and/or workmanship into the work of the first, it shall be the burden of the contractor making the claim to clearly demonstrate the nature and extent of such introduced defects and the responsibility of the other contractor. Any contractor modifying the work of another shall have the same burden if he asserts defects to have been caused by the contractor whose work he is modifying.

24. **ASBESTOS:**

- a. This subsection applies to projects involving existing buildings where asbestos abatement is not a part of the work. If the contractor discovers or inadvertently disturbs any material that may contain asbestos that has not been previously identified, that was overlooked during the removal, or which was deemed not to be friable or which was encapsulated, the contractor shall stop work in the area containing the asbestos, secure the area, and notify the owner immediately by telephone or in person with written notice as soon as possible. The owner will have the suspect material sampled.

If the sample is positive and must be disturbed in the course of the work, the owner will have the material repaired or removed and will pay for the bulk sample analysis.

If the material disturbed is not within the contractor's authorized work and/or work area or under this contract, the contractor will pay for all associated sampling and abatement costs.

- b. If asbestos abatement is included as a part of the work, the contractor shall assure that the asbestos abatement work is accomplished by those duly licensed in accordance with the specific requirements of the contract documents.
- c. If asbestos abatement is included as part of the work, the licensed asbestos subcontractor shall, in the insurance required, add the Commonwealth of Virginia and the contractor as additionally insured to the policy by an endorsement

25. **TRAINING, OPERATION, AND MAINTENANCE OF EQUIPMENT:**

- a. The contractor, in conjunction with his subcontractors and suppliers, shall provide the owner's operations and maintenance personnel with instruction and training in the proper operation and maintenance of the equipment and related controls provided or altered in the work.
- b. The contractor shall provide the owner with a minimum of two (2) copies of operating, maintenance and parts manuals for all equipment provided in the project. Further specific requirements may be indicated in the specifications.

VI. **METHOD OF PAYMENT:**

Payment will be paid by check or electronic transfer per the Code of Virginia § 2.2-4350 prompt payment of bills by state agencies, upon receipt of a valid and complete invoice(s) for services.

Lot 1 – Warrenton Regional Animal Health Lab:

Firm Fixed Price to remove the existing boilers and furnish and install two (2) New Lochinvar FTLX Fire Tube Condensing Boilers (including all parts, labor and delivery):

\$ _____

Lot 2 - Wytheville Regional Animal Health Lab:

Firm Fixed Price to remove the existing boilers and furnish and install two (2) New Lochinvar FTLX Fire Tube Condensing Boilers (including all parts, labor and delivery):

\$ _____

DELIVERY: Delivery of goods or performance of services shall be within the number of calendar days stated below after receipt of order (ARO) by the bidder. The Agency requires the bidder to deliver within a reasonable time after ARO. If the bidder does not insert a stated delivery time in the blank below, the bidder will be deemed to offer delivery in accordance with the Agency's desired delivery time as stated below:

Agency's desired delivered time: 12 weeks ARO

BIDDER'S STATED DELIVERY TIME: _____ CALENDAR DAYS ARO

All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of _____ following installation and acceptance.

RETURN OF THIS PAGE IS REQUIRED

ATTACHMENT B: VENDOR DATA SHEET**IFB# 301-22-117**

The following information is required as part of your response to this solicitation. Failure to complete and provide this sheet may result in finding your bid nonresponsive. Qualification: The bidder must have the capability and capacity in all respects to satisfy fully all the contractual requirements.

1. Bidder's primary contact:

Name and Title: _____ Phone: (____) _____

2. Years in business: Indicate the length of time you have been in business providing this type of good or service:

_____ Years _____ Months

3. Vendor Information:

eVA vendor ID or DUNS Number: _____

4. Indicate below a listing of at least four (4) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods. Include the length of service and the name, address, and telephone number of the point of contact.

A. Company: _____ Contact: _____

Phone : (____) _____ Email: _____

Project: _____

Dates of Service: _____ Value: \$ _____

B. Company: _____ Contact: _____

Phone : (____) _____ Email: _____

Project: _____

Dates of Service: _____ Value: \$ _____

C. Company: _____ Contact: _____

Phone : (____) _____ Email: _____

Project: _____

Dates of Service: _____ Value: \$ _____

D. Company: _____ Contact: _____

Phone : (____) _____ Email: _____

Project: _____

Dates of Service: _____ Value: \$ _____

I certify the accuracy of this information:

Signed: _____ Title: _____ Date: _____

RETURN OF THIS PAGE IS REQUIRED

State Corporation Commission Form

Virginia State Corporation Commission (SCC) registration information.

The Bidder:

- ☐ is a corporation or other business entity with the following SCC identification number:
_____ **-OR-**
- ☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**
- ☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from Bidder's out-of-state location) **-OR-**
- ☐ is an out-of-state business entity that is including with this proposal an opinion of legal counsel which accurately and completely discloses the undersigned Bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the *Code of Virginia*.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver):

RETURN OF THIS PAGE IS REQUIRED

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to include this document with their bid response in order to be considered responsive.

Small Business: "Small business (including micro)" means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (DSBSD) on the due date for bids. This shall also include DSBSD-certified women- owned and minority-owned businesses and businesses with DSBSD service disabled veteran owned status when they also hold a DSBSD certification as a small business on the bid due date. Currently, DSBSD offers small business certification and micro business designation to firms that qualify.

Certification applications are available through DSBSD online at www.SBSD.virginia.gov (Customer Service).

Bidder Name: _____

Preparer Name: _____ **Date:** _____

Who will be doing the work: ☐ I plan to use subcontractors ☐ I plan to complete all work

Instructions

A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form.

B. If you are not a DSBSD-certified small business, complete Section B of this form. For the bid to be considered and the bidder to be declared responsive, the bidder shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in relation to the bidder's total price for the initial contract period in Section B.

Section A

If your firm is certified by the DSBSD provide your certification number and the date of certification.

Certification number: _____ Certification Date: _____

Section B

If the "I plan to use subcontractors box is checked," populate the requested information below, per subcontractor to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the bidder's total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation dollar value or percentages may result in breach of the contract.

RETURN OF THIS PAGE IS REQUIRED

B. Plans for Utilization of DSBSD-Certified Small Businesses for this Procurement

Subcontract #1

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #2

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #3

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #4

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #5

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

RETURN OF THIS PAGE IS REQUIRED